

**NOTICE OF PROPOSED REGULATIONS**  
**California Code of Regulations**  
**Title 15, Crime Prevention and Corrections**  
**Department of Corrections and Rehabilitation**

**NOTICE IS HEREBY GIVEN** that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058, in order to implement, interpret and make specific PC Section 5054, proposes to amend Sections 3173.2 and 3174 in the California Code of Regulations, Title 15, Division 3, concerning Visiting Searches.

**PUBLIC HEARING:**

Date and Time: November 28, 2012 - 9:00 a.m. to 10:00 a.m.  
Place: Department of Corrections and Rehabilitation  
Kern Room  
1515 S Street – North Building  
Sacramento, CA 95811  
Purpose: To receive comments about this action.

**PUBLIC COMMENT PERIOD:**

The public comment period will close November 28, 2012, at 5:00 p.m.. Any person may submit public comments in writing (by mail, by fax or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the Department of Corrections and Rehabilitation, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or by e-mail at [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov) before the close of the comment period.

**CONTACT PERSON:**

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief**  
**Regulation and Policy Management Branch**  
**Department of Corrections and Rehabilitation**  
**P.O. Box 942883, Sacramento, CA 94283-0001**  
**Telephone (916) 445-2269**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**G. Long**  
**Regulation and Policy Management Branch**  
**Telephone (916) 445-2276**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Vaughn Cambridge**  
**Correctional Counselor II**  
**Female Offenders Program**  
**(916) 323-4226**

**LOCAL MANDATES:**

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500 - 17630.

### **FISCAL IMPACT STATEMENT**

- Cost to local agency or school district that is required to be reimbursed: *None.*
- Cost or savings to any state agency: *None.*
- Other nondiscretionary cost or savings imposed on local agencies: *None.*
- Cost or savings in federal funding to the state: *None.*

### **EFFECT ON HOUSING COSTS:**

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

### **SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT AFFECTING BUSINESSES:**

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

### **RESULTS OF THE ECONOMIC IMPACT ASSESSMENT:**

The Department has determined that the proposed regulation will have no impact in the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California, or the health and welfare of California residents, worker safety, or the State's environment.

### **COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

### **EFFECT ON SMALL BUSINESSES:**

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of State prisons.

### **CONSIDERATION OF ALTERNATIVES:**

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

### **AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:**

The Department has prepared, and will make available, the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS:**

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

### **AVAILABILITY OF CHANGES TO PROPOSED TEXT:**

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any

modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:**

PC Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

This action:

- Recognizes CDCR's role in increasing safety in the institutions and adopts new procedures for screening all visitors to provide increased uniformity and standardization.
- Establishes that metal underwires in brassieres are no longer restricted.
- Allows visitors wearing military or law enforcement type clothing in the visiting area if they are on active duty or in an official capacity.
- Clarifies that visitors cannot wear clothing that resembles State issued clothing worn by inmates into the visiting room.
- Provides the appropriate authority and direction for staff.

**SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS:**

The Department has determined these proposed regulations will protect the health and safety of California residents, worker safety, the State's environment, prevent discrimination, promote fairness or social equity, and increase openness and transparency in business and government.

**EVALUATION OF INCONSISTENCY / COMPATIBILITY WITH EXISTING REGULATIONS:**

The Department has determined that these proposed regulations are consistent and compatible with existing State laws and regulations. The Department reached this conclusion because these regulations add specific security guidelines to existing visiting regulations.